

**Submission
No 3**

EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023

Organisation: Eros Association

Date Received: 2 April 2024

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Dear Chair,

Equality Legislation Amendment (LGBTIQA+) Bill 2023

The Eros Association is Australia's industry association for adults-only retail, wholesale, media and entertainment. We write to you in relation to the inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023.

Our particular area of concern is the proposed amendments to the *Anti-Discrimination Act 1977*, which would have the effect of protecting one occupation from discrimination (i.e. sex workers) and not others (e.g. sex shop retailers, drivers, receptionists, etc.).

As the Legislative Review Committee described in its inquiry into the Bill:

*The Bill amends the Anti-Discrimination Act 1977 by making it unlawful to discriminate against a person on the ground of sex work in areas including education, employment, and provision of goods and services. The Bill prevents organisations and persons from discriminating against a person on the ground of current or former engagement in sex work, or that their relative or associates are or were sex workers.*¹

The Committee went on to note:

*The Bill makes it unlawful to discriminate on a characteristic that generally pertains or is imputed to sex workers. Given the ambiguity of what may amount to such a characteristic, the Bill may have a broad application. Therefore, the Bill may limit the rights of individuals including employers, educational authorities, providers of goods and services, and registered clubs, including the freedom of association and contract. The Committee acknowledges that the Bill recognises the particular vulnerability of sex workers to discrimination and vilification. The Committee also notes that the discrimination protections on the basis of sex work may be considered differential treatment, as there are no similar protections under the Act for other categories of employment.*²

¹ Legislation Review Committee, *Legislation Review Digest No. 3/58* (12 September 2023) 15.

² Legislation Review Committee, *Legislation Review Digest No. 3/58* (12 September 2023) 16 (emphasis added).

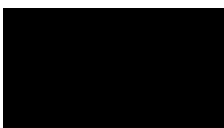
Our concerns are twofold and interrelated. First, the Bill defines a ‘sex worker’ as “a person who provides sexual services on a commercial basis.”³ The term ‘sexual services’ is not defined, which may cause some ambiguity, as it is not limited to sexual activity. Second, and relatedly, the Bill chooses one category of employment (i.e. sex work) for protection, which excludes other occupations that may be subject to discrimination.

We agree with the Public Interest Advocacy Centre that ‘profession, trade or occupation’ should be a protected attribute under the *Anti-Discrimination Act 1977*,⁴ as it is in the Australian Capital Territory and Victoria.⁵ As the Victorian Equal Opportunity and Human Rights Commission has noted, this would provide protection to sex workers and those in the sex industry, as well as workers in other industries.⁶

As many in our industry work across state and territory borders, we believe in harmonisation of laws in this area; that is, the law should reflect other provisions in interstate equal opportunity laws, such as that in the Australian Capital Territory and Victoria (which also prohibit discrimination based on employment status or employment activity⁷). This would also protect people from financial discrimination, including from banks, insurers, landlords and suppliers, on the basis of their profession, trade or occupation.

We also believe that a broader attribute of this kind would ameliorate some of the issues to do with the ambiguity and narrowness of the proposed attribute of ‘sex worker’.

We urge the Committee to recommend that the Bill be amended to include ‘profession, trade or occupation’ as a protected attribute under the *Anti-Discrimination Act 1977*.



Graeme Dunne
General Manager
Eros Association

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³ Equality Legislation Amendment (LGBTIQ+ Equality Bill 2023 sch 1 cl 39.

⁴ Public Interest Advocacy Centre, *Leader to Laggard: The Case for Modernising the NSW Anti-Discrimination Act* (nd) 4.

⁵ *Discrimination Act 1991* (ACT) s 7(1)(p); *Equal Opportunity Act 2010* (Vic) s 6(la).

⁶ Victorian Equal Opportunity and Human Rights Commission, *Submission to Review into the Decriminalisation of Sex Work* (2020) 3-4

<[https://www.humanrights.vic.gov.au/static/2aaf9da86629d99172feb50ac58d79fd/Submission-Review into the Decriminalisation of Sex Work-Jul20 pdf](https://www.humanrights.vic.gov.au/static/2aaf9da86629d99172feb50ac58d79fd/Submission-Review%20into%20the%20Decriminalisation%20of%20Sex%20Work-Jul20.pdf)>.

⁷ *Equal Opportunity Act 2010* (Vic) s 6(c); *Anti-Discrimination Act 1991* (ACT) s 7(n).